

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**LARRY E MILLER
600 S AVE APT 12
ESSEX IA 51638**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 05A-UI-06555-AT
OC: 06-13-04 R: 01
Claimant: Appellant (2)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-5 – Employees of Educational Institutions
871 IAC 24.52(7) – Head Start Programs

STATEMENT OF THE CASE:

Larry E. Miller filed a timely appeal from an unemployment insurance decision dated June 17, 2005, reference 01, which denied benefits to him upon a finding that he was an employee of an educational institution who was unemployed between academic years and had reasonable assurance of continued employment in the upcoming academic year. After due notice was issued, a telephone hearing was held July 11, 2005, with Mr. Miller participating. Transportation Director Jeff Beckner participated for the employer, Southwest Iowa Planning Council.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Larry E. Miller has been employed by Southwest Iowa Planning Council since October 2000. Southwest Iowa Planning Council is a community service organization providing economic development and transportation services for a number of communities in Southwest Iowa. Mr. Miller is a driver whose primary route is related to a Head Start program. Southwest Iowa Planning Council does not operate the Head Start program. It is one of many different transportation programs operated by the employer.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Mr. Miller should be denied unemployment insurance benefits during the summer of 2005 as a result of the statute denying benefits to employees of educational institutions between academic years. The administrative law judge concludes that the statute does not apply to Mr. Miller.

The evidence establishes first of all that Mr. Miller is not an employee of an educational institution. He does not work for a school district or from an organization which operates a Head Start program. His employer merely provides services to one or more Head Start programs operated by other entities. Neither the language of the statute nor the language of 871 IAC 24.52 applies to Mr. Miller. Benefits are allowed.

DECISION:

The unemployment insurance decision dated June 17, 2005, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible.

sc/kjw